

FREEDOM NATIONAL; SLAVERY SECTIONAL.

SPEECH

OF

HON. CHARLES SUMNER,  
OF MASSACHUSETTS,

ON HIS MOTION

TO REPEAL THE FUGITIVE SLAVE BILL,

IN THE SENATE OF THE UNITED STATES, AUGUST 26, 1852.

If any man thinks that the interest of these Nations and the interest of Christianity are two separate and distinct things, I wish my soul may never enter into his secret.

OLIVER CROMWELL.

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# SPEECH.

In the Senate, Wednesday, May 26th, 1852, on the presentation of a memorial against the Fugitive Slave Bill, the following passage occurred:

Mr. SUMNER. I hold in my hand, and desire to present, a memorial from the representatives of the Society of Friends in New England, formally adopted at a public meeting, and authenticated by their clerk, in which they ask for the repeal of the Fugitive Slave Bill. After setting forth their sentiments on the general subject of slavery, the memorialists proceed as follows:

"We, therefore, respectfully, but earnestly and sincerely, entreat you to repeal the law of the last Congress respecting fugitive slaves; first and principally because of its injustice towards a long sorely-oppressed and deeply-injured people; and, secondly, in order that we, together with other conscientious sufferers, may be exempted from the penalties which it imposes on all, who in faithfulness to their Divine Master, and in discharge of their obligations to their distressed fellow-men, feel bound to regulate their conduct, even under the heaviest penalties which man can inflict for so doing, by the Divine injunction, 'All things whatsoever ye would that men should do to you, do you even so to them;' and by the other commandment, 'Thou shalt love the Lord thy God with all thy heart, and thy neighbor as thyself.'"

Mr. President, this memorial is commended by the character of the religious association from which it proceeds—men who mingle rarely in public affairs, but with austere virtue seek to carry the Christian rule into life.

The PRESIDENT. The Chair will have to interpose. The Senator is not privileged to enter into a discussion of the subject now. The contents of the memorial, simply, are to be stated, and then it becomes a question whether it is to be received, if any objection is made to its reception. Silence gives consent. After it is received he can make a motion with regard to its reference, and then make any remarks he thinks proper.

Mr. SUMNER. I have but a very few words to add, and then I propose to move the reference of the memorial to the Committee on the Judiciary.

The PRESIDENT. The memorial has first to be received before any motion as to its reference can be entertained. The Senator presenting a memorial states distinctly its objects and contents; then it is sent to the Chair, if a reference of it is desired. But it is not in order to enter into a discussion of the merits of the memorial until it has been received.

Mr. SUMNER. I do not propose to enter into any such discussion. I have already read one part of the memorial, and it was my design merely to refer to the character of the memorialists—a usage which I have observed on this floor constantly—to state the course I should pursue, and then conclude with a motion for a reference.

The PRESIDENT. The Chair will hear the Senator, if such is the pleasure of the Senate, if he does not go into an elaborate discussion.

Mr. SUMNER. I have no such purpose.

Mr. DAWSON. Let him be heard.

Several SENATORS. Certainly.

Mr. SUMNER. I observed that this memorial was commended by the character of the religious association from which it proceeds. It is commended, also, by its earnest and persuasive tone, and by the prayer which it presents. Offering it now, sir, I desire simply to say, that I shall deem it my duty, on some proper occasion hereafter, to express myself at length on the matter to which it relates. Thus far, during this session, I have forbore. With the exception of an able speech from my colleague, [Mr. DAVIS,] the discussion of this all-absorbing question has been mainly left with Senators from another quarter of the country, by whose mutual differences it has been complicated, and between whom I have not cared to interfere. But, there is a time for all things. Justice, also, requires that both sides should be heard; and I trust not to expect too much, when, at some fit moment, I bespeak the clear and candid attention of the Senate, while I undertake to set forth, frankly and fully, and with entire respect for this body, convictions, deeply cherished in my own State, though disregarded here—to which I am bound by every sentiment of the heart, by every fibre of my being, by all my devotion to country, by my love of God and man. But, upon these I do not now enter. Suffice it, for the present, to say, that when I shall undertake that service, I believe I shall utter nothing which, in any just sense, can be called *sectional*, unless the Constitution is *sectional*, and unless the sentiments of the fathers were *sectional*. It is my happiness to believe, and my hope to be able to show that, according to the true spirit of the Constitution, and according to the sentiments of the fathers, FREEDOM, and not *slavery*, is NATIONAL; while SLAVERY, and not *freedom*, is SECTIONAL. In duty to the petitioners, and with the hope of promoting their prayer, I move the reference of their petition to the Committee on the Judiciary.

A brief debate ensued, in which Messrs. Mangum, Badger, Hale, Clemens, Dawson, Adams, Butler, and Chase, took part; and, on motion of Mr. BADGER, the memorial was laid on the table.

On Thursday, 27th July, the subject was again presented to the Senate:

Mr. SUMNER. Mr. President, I have a resolution which I desire to offer; and I wish, also, to give notice that I shall expect to call it up to-morrow, at an early time in the morning hour, when I shall throw myself upon the indulgence of the Senate to be heard upon it.

The resolution was then read, as follows:

*Resolved*, That the Committee on the Judiciary be requested to consider the expediency of reporting a bill for the immediate repeal of the act of Congress, approved September 18, 1850, usually known as the Fugitive Slave Act.

In pursuance of this notice, on the next day, during

the morning hour, an attempt was made to call it up.

Mr. SUMNER, Mr. President, I now ask permission of the Senate to take up the resolution which I offered yesterday. For that purpose, I move that the prior orders be postponed, and upon this motion I desire to say a word. In asking the Senate to take up this resolution for consideration, I say nothing of its merits nor of the arguments by which it may be maintained; nor do I at this stage anticipate any objections to it on these grounds. All this will properly belong to the discussion of the resolution itself—the main question—when it is actually before the Senate. The single question now is, not the resolution, but whether I shall be heard upon it. As a Senator, under the responsibilities of my position, I have deemed it my duty to offer this resolution. I may seem to have postponed this duty to an inconvenient period of the session; but had I attempted it at an earlier day, I might have exposed myself to a charge of a different character. It might then have been said that, a new-comer and inexperienced in this scene, without deliberation, hastily, rashly, recklessly, I pushed this question before the country. This is not the case now. I have taken time, and in the exercise of my most careful discretion now ask for it the attention of the Senate. I shrink from any appeal founded on a trivial personal consideration; but should I be blamed for any delay latterly, I may add, that though in my seat daily, my bodily health for some time past, down to this very week, has not been equal to the service I have undertaken. I am not sure that it is now; but I desire to try. And now again I say the question is simply whether I shall be heard. In allowing me this privilege—this right, I might say—you do not commit yourselves in any way to the principle of the resolution; but you merely follow the ordinary usage of the Senate, and yield to a brother Senator the opportunity which he craves, in the practical discharge of his duty, to express convictions dear to his heart, and dear to large numbers of his constituents. For the sake of these constituents, for my own sake, I now desire to be heard. Make such disposition of my resolution afterward as to you shall seem best; visit upon me any degree of criticism, censure, or displeasure, but do not deprive me of a hearing. "Strike, but hear."

A debate ensued, in which Messrs. Mason, Brooke, Charlton, Shields, Gwin, Douglas, Butler, and Borland, took part. Objections to taking up the resolution were pressed on the ground of "want of time," "the lateness of the session," and "danger to the Union."

The question being then taken upon the motion by Mr. SUMNER, to take up his resolution, it was rejected—yeas 10, nays 32—as follows:

YEAS—Messrs. Clarke, Davis, Dodge of Wisconsin, Foot, Hamlin, Seward, Shields, Sumner, Upham, and Wade—10.

NAYS—Messrs. Borland, Brodhead, Brooke, Cass, Charlton, Clemens, Desaussure, Dodge of Iowa, Douglas, Downs, Felch, Fish, Geyer, Gwin, Hunter, King, Mallory, Mangum, Mason, Meriwether, Miller, Morton, Norris, Pearce, Pratt, Rusk, Sebastian, Smith, Soule, Spruance, Toucey, and Welles—32.

THURSDAY, AUGUST 26, 1852.

The Civil and Diplomatic Appropriation Bill being under consideration, the following amendment was moved by the Committee on Finance:

"That where the ministerial officers of the United States have or shall incur extraordinary expenses in executing the laws thereof, the payment of which is not specifically provided for, the President of the

United States is authorized to allow the payment thereof, under the special taxation of the district or circuit court of the district in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary."

Mr. SUMNER moved the following amendment to the amendment:

"Provided, That no such allowance shall be authorized for any expenses incurred in executing the act of September 18, 1850, for the surrender of fugitives from service or labor; which said act is hereby repealed."

On this he took the floor, and spoke as follows:

Mr. PRESIDENT: Here is a provision for extraordinary expenses incurred in executing the laws of the United States. Extraordinary expenses! Sir, beneath these specious words lurks the very subject on which, by a solemn vote of this body, I was refused a hearing. Here it is; no longer open to the charge of being an "abstraction," but actually presented for practical legislation; not introduced by me, but by one of the important committees of the Senate; not brought forward weeks ago, when there was ample time for discussion, but only at this moment, without any reference to the late period of the session. The amendment, which I now offer, proposes to remove one chief occasion of these extraordinary expenses. And now, at last, among these final crowded days of our duties here, but at this earliest opportunity, I am to be heard; not as a favor, but as a right. The graceful usages of this body may be abandoned, but the established privileges of debate cannot be abridged. Parliamentary courtesy may be forgotten, but Parliamentary law must prevail. The subject is broadly before the Senate. By the blessing of God, it shall be discussed.

Sir, a severe lawgiver of early Greece vainly sought to secure permanence for his imperfect institutions, by providing that the citizen who, at any time, attempted an alteration or repeal of any part thereof, should appear in the public assembly with a halter about his neck, ready to be drawn if his proposition failed to be adopted. A tyrannical spirit among us, in unconscious imitation of this antique and discarded barbarism, seeks to surround an offensive institution with a similar safeguard. In the existing distemper of the public mind and at this present juncture, no man can enter upon the service which I now undertake, without a personal responsibility, such as can be sustained only by that sense of duty which, under God, is always our best support. That personal responsibility I accept. Before the Senate and the country let me be held accountable for this act, and for every word which I utter.

With me, sir, there is no alternative. Painfully convinced of the unutterable wrongs and woes of slavery; profoundly believing that, according to the true spirit of the Constitution and the sentiments of the fathers, it can find

no place under our *National Government*—that it is in every respect *sectional*, and in no respect *rational*—that it is always and everywhere the creature and dependent of the *States*, and never anywhere the creature or dependent of the *Nation*, and that the *Nation* can never, by legislative or other act, impart to it any support, under the Constitution of the United States; with these convictions, I could not allow this session to reach its close, without making or seizing an opportunity to declare myself openly against the usurpation, injustice, and cruelty, of the late enactment by Congress for the recovery of fugitive slaves. Full well I know, sir, the difficulties of this discussion, arising from prejudices of opinion and from adverse conclusions, strong and sincere as my own. Full well I know that I am in a small minority, with few here to whom I may look for sympathy or support. Full well I know that I must utter things unwelcome to many in this body, which I cannot do without pain. Full well I know that the institution of slavery in our country, which I now proceed to consider, is as sensitive as it is powerful—possessing a power to shake the whole land with a sensitiveness that shrinks and trembles at the touch. But, while these things may properly prompt me to caution and reserve, they cannot change my duty, or my determination to perform it. For this I willingly forget myself, and all personal consequences. The favor and good-will of my fellow-citizens, of my brethren of the Senate, sir—grateful to me as it justly is—I am ready, if required, to sacrifice. All that I am or may be, I freely offer to this cause.

And here allow me, for one moment, to refer to myself and my position. Sir, I have never been a politician. The slave of principles, I call no party master. By sentiment, education, and conviction, a friend of Human Rights, in their utmost expansion, I have ever most sincerely embraced the Democratic Idea; not, indeed, as represented or professed by any party, but according to its real significance, as transfigured in the Declaration of Independence, and in the injunctions of Christianity. In this Idea I saw no narrow advantages merely for individuals or classes, but the sovereignty of the people and the greatest happiness of all secured by equal laws. Amidst the vicissitudes of public affairs, I trust always to hold fast to this Idea, and to any political party which truly embraces it.

Party does not constrain me; nor is my independence lessened by any relations to the office which gives me a title to be heard on this floor. And here, sir, I may speak proudly. By no effort, by no desire of my own, I find myself a Senator of the United States. Never before have I held public office of any kind. With the ample opportunities of private life I was content. No tombstone for me could bear a fairer inscription than this: "Here lies one who, without the honors or emoluments of public

station, did something for his fellow man." From such simple aspirations I was taken away by the free choice of my native Commonwealth, and placed in this responsible post of duty, without personal obligation of any kind, beyond what was implied in my life and published words. The earnest friends, by whose confidence I was first designated, asked nothing from me, and, throughout the long conflict which ended in my election, rejoiced in the position which I most carefully guarded. To all my language was uniform, that I did not desire to be brought forward; that I would do nothing to promote the result; that I had no pledges or promises to offer; that the office should seek me, and not I the office; and that it should find me in all respects an independent man, bound to no party and to no human being, but only, according to my best judgment, to act for the good of all. Again, sir, I speak with pride, both for myself and others, when I add that these avowals found a sympathizing response. In this spirit I have come here, and in this spirit I shall speak to-day.

Rejoicing in my independence and claiming nothing from party ties, I throw myself upon the candor and magnanimity of the Senate. I now ask your attention; but I trust not to abuse it. I may speak strongly; for I shall speak openly and from the strength of my convictions. I may speak warmly; for I shall speak from the heart. But in no event can I forget the amenities which belong to debate, and which especially become this body. Slavery I must condemn with my whole soul; but here I need only borrow the language of slaveholders themselves; nor would it accord with my habits or my sense of justice to exhibit them as the impersonation of the institution—Jefferson calls it the "enormity"—which they cherish. Of them I do not speak; but without fear and without favor, as without impeachment of any person, I assail this wrong. Again, sir, I may err; but it will be with the Fathers. I plant myself on the ancient ways of the Republic, with its grandest names, its surest landmarks, and all its original altars about me.

And now, on the very threshold, I encounter the objection that there is a final settlement, in principle and substance, of the question of Slavery, and that all discussion of it is closed. Both the old political parties of the country, by formal resolutions, have united in this declaration. On a subject which for years has agitated the public mind; which yet palpitates in every heart and burns on every tongue; which, in its immeasurable importance, dwarfs all other subjects; which, by its constant and gigantic presence, throws a shadow across these Halls: which at this very time calls for appropriations to meet extraordinary expenses it has caused, they have imposed the rule of silence. According to them, sir, we may speak

present in all our minds.

To this combined effort I might fitly reply, that, with flagrant inconsistency, it challenges the very discussion which it pretends to forbid. Such a declaration, on the eve of an election, is, of course, submitted to the consideration and ratification of the people. Debate, inquiry, discussion, are the necessary consequence. Silence becomes impossible. Slavery, which you profess to banish from the public attention, openly by your invitation enters every political meeting and every political convention. Nay, at this moment it stalks into this Senate, crying, like the daughters of the horse-leech, "Give! give!"

But no unanimity of politicians can uphold the baseless assumption, that a law, or any conglomerate of laws, under the name of Compromise, or howsoever called, is final. Nothing can be plainer than this; that, by no Parliamentary device or knot, can any Legislature tie the hands of a succeeding Legislature, so as to prevent the full exercise of its constitutional powers. Each Legislature, under a just sense of its responsibility, must judge for itself; and, if it think proper, it may revise or amend, or absolutely undo the work of its predecessors. The laws of the Medes and Persians are proverbially said to have been unalterable; but they stand forth in history as a single example of such irrational defiance of the true principles of all law.

To make a law final, so as not to be reached by Congress, is, by mere legislation, to fasten a new provision on the Constitution. Nay, more; it gives to the law a character which the very Constitution does not possess. The wise fathers did not treat the country as a Chinese foot, never to grow after infancy; but, anticipating Progress, they declared expressly that their Great Act is not final. According to the Constitution itself, there is not one of its existing provisions—not even that with regard to fugitives from labor—which may not at all times be reached by amendment, and thus be drawn into debate. This is rational and just. Sir, nothing from man's hands, nor law, nor constitution, can be final. Truth alone is final.

Inconsistent and absurd, this effort is tyrannical also. The responsibility for the recent Slave Act and for Slavery everywhere within the jurisdiction of Congress necessarily involves the right to discuss them. To separate these is impossible. Like the twenty-fifth rule of the House of Representatives against petitions on Slavery—now repealed and dishonored—the Compromise, as explained and urged, is a curtailment of the actual powers of legislation, and a perpetual denial of the indisputable principle that the right to deliberate is co-extensive with the responsibility for an act. To sustain Slavery, it is now proposed to trample on *free speech*. In any country this would be grievous; but here, where the Constitution

of speech, it is a special outrage. In vain do we condemn the despotisms of Europe, while we borrow the rigors with which they repress Liberty, and guard their own uncertain power. For myself, in no factious spirit, but solemnly and in loyalty to the Constitution, as a Senator of Massachusetts, I protest against this wrong. On Slavery, as on every other subject, I claim the right to be heard. That right I cannot, I will not abandon. "Give me the liberty to know, to utter and to argue freely, above all liberties." These are the glowing words which flashed from the soul of John Milton, in his struggles with English tyranny. With equal fervor they should be echoed now by every American, not already a slave.

But, sir, this effort is impotent as tyrannical. The convictions of the heart cannot be repressed. The utterances of conscience must be heard. They break forth with irrepressible might. As well attempt to check the tides of Ocean, the currents of the Mississippi, or the rushing waters of Niagara. The discussion of Slavery will proceed, wherever two or three are gathered together—by the fireside, on the highway, at the public meeting, in the church. The movement against Slavery is from the Everlasting Arm. Even now it is gathering its forces, soon to be confessed everywhere. It may not yet be felt in the high places of office and power; but all who can put their ears humbly to the ground, will hear and comprehend its incessant and advancing tread.

The relations of the Government of the United States—I speak of the National Government—to Slavery, though plain and obvious, are constantly misunderstood. A popular belief at this moment makes Slavery a national institution, and, of course, renders its support a national duty. The extravagance of this error can hardly be surpassed. An institution, which our fathers most carefully omitted to name in the Constitution, which, according to the debates in the Convention, they refused to cover with any "sanction," and which, at the original organization of the Government, was merely *sectional*, existing nowhere on the *national* territory, is now above all other things blazoned as national. Its supporters plume themselves as national. The old political parties, while upholding it, claim to be national. A National Whig is simply a Slavery Whig, and a National Democrat is simply a Slavery Democrat, in contradistinction to all who regard Slavery as a sectional institution, within the exclusive control of the States, and with which the nation has nothing to do.

As Slavery assumes to be national, so, by an equally strange perversion, Freedom is degraded to be sectional, and all who uphold it, under the national Constitution, share this same epithet. The honest efforts to secure its blessings, everywhere within the jurisdiction

stration. he sought to recover a slave, who had fled to New Hampshire. His autograph letter to Mr. Whipple, the Collector of Portsmouth, dated at Philadelphia, 28th November, 1796, which I now hold in my hand, and which has never before seen the light, after describing the fugitive and particularly expressing the desire of "her mistress," Mrs. Washington, for her return, employs the following decisive language:

"I do not mean, however, by this request, that such violent measures should be used AS WOULD EXCITE A MOB OR RIOT, WHICH MIGHT BE THE CASE IF SHE HAS ADHERENTS, OR EVEN UNEASY SENSATIONS IN THE MINDS OF WELL-DISPOSED CITIZENS. Rather than either of these should happen, I would forego her services altogether; and the example also, which is of infinite more importance.

"GEORGE WASHINGTON."

Mr. Whipple, in his reply, dated at Portsmouth, December 22, 1796, an autograph copy of which I have, recognises the rule of Washington:

"I will now, sir, agreeably to your desire, send her to Alexandria, *if it be practicable without the consequences which you except—that of exciting a riot or a mob, or creating uneasy sensations in the minds of well-disposed persons.* The first cannot be calculated beforehand; it will be governed by the popular opinion of the moment, or the circumstances that may arise in the transaction. The latter may be sought into and judged of by conversing with such persons without discovering the occasion. So far as I have had opportunity, I perceive that different sentiments are entertained on this subject."

The fugitive never was returned; but lived in freedom to a good old age, down to a very recent period, a monument of the just forbearance of him whom we aptly call the Father of his Country. It is true that he sought her return. This we must regret, and find its apology. He was at the time a slaveholder. Though often with various degrees of force expressing himself against slavery, and promising his suffrage for its abolition, he did not see this wrong as he saw it at the close of life, in the illumination of another sphere. From this act of Washington, still swayed by the policy of the world, I appeal to Washington writing his will. From Washington on earth I appeal to Washington in Heaven. Seek not by his name to justify any such effort. His death is above his life. His last testament cancels his authority as a slaveholder. However he may have appeared before man, he came into the presence of God only as the liberator of his slaves. Grateful for this example, I am grateful also, that while a slaveholder, and seeking the return of a fugitive, he has left in permanent record a rule of conduct which, if adopted by his country, will make Slave-Hunting impossible. The chances of a riot or mob, or "even uneasy sensations among well-disposed persons," are to prevent any such pursuit.

Sir, the existing Slave Act cannot be enforced without violating the precept of Washing-

disposed persons," but rage, tumult, commotion, mob, riot, violence, death, gush from its fatal overflowing fountains;

— hoc fente derivata clades  
In patriam populumque fluxit.

Not a case occurs without endangering the public peace. Workmen are brutally dragged from employments to which they are wedded by years of successful labor; husbands are ravished from wives, and parents from children. Everywhere there is disturbance: at Detroit, Buffalo, Harrisburgh, Syracuse, Philadelphia, New York, Boston. At Buffalo the fugitive was cruelly knocked by a log of wood against a red-hot stove, and his mock trial commenced while the blood still oozed from his wounded head. At Syracuse he was rescued by a sudden mob; so also at Boston. At Harrisburgh the fugitive was shot; at Christiana the Slave-Hunter was shot. At New York unprecedented excitement, always with uncertain consequences, has attended every case. Again at Boston a fugitive, according to the received report, was first basely seized under pretext that he was a criminal; arrested only after a deadly struggle; guarded by officers who acted in violation of the laws of the State; tried in a Court House surrounded by chains contrary to the common law; finally surrendered to Slavery by trampling on the criminal process of the State, under an escort in violation again of the laws of the State, while the pulpits trembled and the whole people, not merely "uneasy," but swelling with ill-suppressed indignation, for the sake of order and tranquillity, without violence witnessed the shameful catastrophe.

With every attempt to administer the Slave Act, it constantly becomes more revolting, particularly in its influence on the agents it enlists. Pitch cannot be touched without defilement, and all who lend themselves to this work seem at once and unconsciously to lose the better part of man. The spirit of the law passes into them, as the devils entered the swine. Upstart commissioners, the mere mushrooms of courts, vie and revie with each other. Now by indecent speed, now by harshness of manner, now by a denial of evidence, now by crippling the defence, and now by open glaring wrong, they make the odious Act yet more odious. Clemency, grace, and justice, die in its presence. All this is observed by the world. Not a case occurs which does not harrow the souls of good men, and bring tears of sympathy to the eyes, also those other tears which "patriots shed o'er dying laws."

Sir, I shall speak frankly. If there be an exception to this feeling it will be found chiefly with a peculiar class. It is a sorry fact that the "mercantile interest," in its unpardonable selfishness, twice in English history, frowned upon the endeavors to suppress the atrocity of Algerine Slavery; that it sought to

baffle Wilberforce's great effort for the abolition of the African slave trade; and that, by a sordid compromise, at the formation of our Constitution, it exempted the same detested Heaven-defying traffic from American judgment. And now representatives of this "interest," forgetful that commerce is the child of Freedom, join in huzzing the Slave. But the great heart of the people recoils from this enactment. It palpitates for the fugitive, and rejoices in his escape. Sir, I am telling you facts. The literature of the age is all on his side. The songs, more potent than laws, are for him. The poets, with voices of melody, are for Freedom. Who could sing for Slavery? They who make the permanent opinion of the country, who mould our youth, whose words, dropped into the soul, are the germs of character, supplicate for the Slave. And now, sir, behold a new and heavenly ally. A woman, inspired by Christian genius, enters the lists, like another Joan of Arc, and with marvellous power sweeps the chords of the popular heart. Now melting to tears, and now inspiring to rage, her work everywhere touches the conscience, and makes the Slave-Hunter more hateful. In a brief period, nearly 100,000 copies of *Uncle Tom's Cabin* have been already circulated. But this extraordinary and sudden success—surpassing all other instances in the records of literature—cannot be regarded merely as the triumph of genius. Higher far than this, it is the testimony of the people, by an unprecedented act, against the Fugitive Slave Bill.

These things I dwell upon as the incentives and tokens of an existing public sentiment, which renders this Act practically inoperative, except as a tremendous engine of terror. Sir, the sentiment is just. Even in the lands of slavery, the slave-trader is loathed as an ignoble character, from whom the countenance is turned away; and can the Slave-Hunter be more regarded while pursuing his prey in a land of Freedom? In early Europe, in barbarous days, while Slavery prevailed, a Hunting Master, *nach jagender Herr*, as the Germans called him, was held in aversion. Nor was this all. The fugitive was welcomed in the cities, and protected against the pursuit. Sometimes vengeance awaited the Hunter. Down to this day, at Revel, now a Russian city, a sword is proudly preserved with which a Hunting Baron was beheaded, who, in violation of the municipal rights of this place, seized a fugitive slave. Hostile to this Act as our public sentiment may be, it exhibits no trophy like this. The State laws of Massachusetts have been violated in the seizure of a fugitive slave; but no sword, like that of Revel, now hangs at Boston.

I have said, sir, that this sentiment is just. And is it not? Every escape from Slavery necessarily and instinctively awakens the regard of all who love Freedom. The endeavor, though unsuccessful, reveals courage, manhood, character. No story is read with more

interest than that of our own Lafayette, when, aided by a gallant South Carolinian, in defiance of the despotic ordinances of Austria, kindred to our Slave Act, he strove to escape from the bondage of Olmutz. Literature pauses with exultation over the struggles of Cervantes, the great Spaniard, while a slave in Algiers, to regain the liberty for which he says, in his immortal work, "we ought to risk life itself, Slavery being the greatest evil that can fall to the lot of man." Science, in all her manifold triumphs, throbs with pride and delight, that Arago, the astronomer and philosopher—devoted republican also—was redeemed from barbarous Slavery to become one of her greatest sons. Religion rejoices serenely, with joy unspeakable, in the final escape of Vincent de Paul. Exposed in the public square of Tunis to the inspection of the traffickers in human flesh, this illustrious Frenchman was subjected to every vileness of treatment, like a horse, compelled to open his mouth, to show his teeth, to trot, to run, to exhibit his strength in lifting burthens, and then, like a horse, legally sold in market overt. Passing from master to master, after a protracted servitude, he achieved his freedom, and regaining France, commenced that resplendent career of charity by which he is placed among the great names of Christendom. Princes and orators have lavished panegyrics upon this fugitive slave; and the Catholic Church, in homage to his extraordinary virtues, has introduced him into the company of saints.

Less by genius or eminent services, than by sufferings, are the fugitive slaves of our country now commended. For them every sentiment of humanity is aroused;

— "Who could refrain  
That had a heart to love, and in that heart  
Courage to make his love known?"

Rude and ignorant they may be; but in their very efforts for Freedom, they claim kindred with all that is noble in the Past. They are among the heroes of our age. Romance has no stories of more thrilling interest than theirs. Classical antiquity has preserved no examples of adventurous trial more worthy of renown. Among them are men whose names will be treasured in the annals of their race. By the eloquent voice they have already done much to make their wrongs known, and to secure the respect of the world. History will soon lend them her avenging pen. Proscribed by you during life, they will proscribe you through all time. Sir, already judgment is beginning. A righteous public sentiment palsies your enactment.

And now, sir, let us review the field over which we have passed. We have seen that any compromise, finally closing the discussion of Slavery under the Constitution, is tyrannical, absurd, and impotent; that as Slavery can exist only by virtue of positive law, and as it has no



such positive support in the Constitution, it cannot exist within the National jurisdiction; that the Constitution nowhere recognises property in man, and that, according to its true interpretation, Freedom and not Slavery is national, while Slavery and not Freedom is sectional; that, in this spirit, the National Government was first organized under Washington, himself an Abolitionist, surrounded by Abolitionists, while the whole country, by its Church, its Colleges, its Literature, and all its best voices, was united against Slavery, and the national flag at that time nowhere within the National Territory covered a single slave; still further, that the National Government is a Government of delegated powers, and as among these there is no power to support Slavery, this institution cannot be national, nor can Congress in any way legislate in its behalf; and, finally, that the establishment of this principle is the true way of peace and safety for the Republic. Considering next the provision for the surrender of fugitives from labor, we have seen that it was not one of the original compromises of the Constitution; that it was introduced tardily and with hesitation, and adopted with little discussion, and then and for a long period after was regarded with comparative indifference; that the recent Slave Act, though many times unconstitutional, is especially so on two grounds—*first*, as a usurpation by Congress of powers not granted by the Constitution, and an infraction of rights secured to the States; and *secondly*, as a denial of Trial by Jury, in a question of Personal Liberty and a suit at common law; that its glaring unconstitutionality finds a prototype in the British Stamp Act, which our fathers refused to obey as unconstitutional on two parallel grounds—*first*, because it was a usurpation by Parliament of powers not belonging to it under the British Constitution and an infraction of rights belonging to the Colonies; and *secondly*, because it was a denial of Trial by Jury in certain cases of property; that as Liberty is far above property, so is the outrage perpetrated by the American Congress far above that perpetrated by the British Parliament; and, finally, that the Slave Act has not that support in the public sentiment of the States where it is to be executed, which is the life of all law, and which prudence and the precept of Washington require.

Sir, thus far I have arrayed the objections to this Act, and the false interpretations out of which it has sprung. But I am asked what I offer as a substitute for the legislation which I denounce. Freely I will answer. It is to be found in a correct appreciation of the provision of the Constitution, under which this discussion occurs. Look at it in the double light of reason and of Freedom, and we cannot mistake the exact extent of its requirements. Here is the provision:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

From the very language employed it is obvious that this is merely a compact between the States, with a prohibition on the States, *confering no power on the nation*. In its natural signification it is a compact. According to the examples of other countries, and the principles of jurisprudence, it is a compact. All arrangements for the extradition of fugitives have been customarily compacts. Except under the express obligations of treaty, no nation is bound to surrender fugitives. Especially has this been the case with fugitives for Freedom. In medieval Europe, cities refused to recognise this obligation in favor of persons even under the same National Government. In 1531, while the Netherlands and Spain were united under Charles V, the Supreme Council of Mechlin rejected an application from Spain for the surrender of a fugitive slave. By express compact alone could this be secured. But the provision of the Constitution was borrowed from the Ordinance of the Northwestern Territory, which is expressly declared to be a compact; and this Ordinance, finally drawn by Nathan Dane, was again borrowed in its distinctive features from the early institutions of Massachusetts, among which, as far back as 1643, was a compact of like nature with other New England States. Thus this provision is a compact in language, in nature, in its whole history; as we have already seen it is a compact, according to the intentions of our Fathers and the genius of our institutions.

As a compact its execution depends absolutely upon the States, without any intervention of the Nation. *Each State, in the exercise of its own judgment, will determine for itself the precise extent of the obligations assumed*. As a compact in derogation of Freedom, it must be construed strictly in every respect—leaning always in favor of Freedom, and shunning any meaning, not clearly obvious, which takes away important personal rights; mindful that the parties to whom it is applicable are regarded as "persons," of course with all the rights of "persons" under the Constitution; and especially mindful of the vigorous maxim of the common law, that he is cruel and impious who does not always favor Freedom. With this key the true interpretation is natural and easy.

Briefly, the States are prohibited from any "law or regulation" by which the fugitive may be discharged, and on the establishment of the claim to his service, he is to be delivered up. But the mode by which the claim is to be tried and determined is not specified. All this is obviously within the control of each State. It may be done by virtue of express legislation,

in which even any Legislature, justly an enemy of Personal Liberty, would surround the fugitive with every shield of the law and Constitution. But such legislation may not be necessary. The whole proceeding, without any express legislation, may be left to the ancient and authentic forms of the common law, familiar to the framers of the Constitution and ample for the occasion. If the fugitive be seized without process, he will be entitled at once to his writ *de Homine Replegiando*, while the master, resorting to process, may find his remedy in the writ *de Nativitate Habendo*—each writ requiring Trial by Jury. If from ignorance or lack of employment these processes have slumbered in our country, still they belong to the great arsenal of the common law, and continue, like other ancient writs, *tantum gladium in vagina*, ready to be employed at the first necessity. They belong to the safeguards of the citizen. But in any event and in either alternative the proceedings would be by "suit at common law," with Trial by Jury; and it would be the solemn duty of the court, according to all the forms and proper delays of the common law, to try the case on the evidence; strictly to apply all the protecting rules of evidence, and especially to require stringent proof, by competent witnesses under cross-examination, that the person claimed was held to service; that his service was due to the claimant; that he had escaped from the State where such service was due; and also proof of the laws of the State under which he was held. Still further, to the Courts of each State must belong the determination of the question, to what classes of persons, according to just rules of interpretation, the phrase "persons held to service or labor" is strictly applicable.

Such is this much-debated provision. The Slave States, at the formation of the Constitution, did not propose, as in the cases of Naturalization and Bankruptcy, to empower the National Government to establish an uniform rule for the rendition of fugitives from labor, throughout the United States; they did not ask the National Government to charge itself in any way with this service: they did not venture to offend the country, and particularly the Northern States, by any such assertion of a hateful right. They were content, under the sanctions of compact, to leave it to the public sentiment of the States. There, I insist it shall remain.

Mr. President, I have occupied much time; but the great subject still stretches before us. One other point yet remains, which I should not leave untouched, and which justly belongs to the close. The Slave Act violates the Constitution and shocks the Public Conscience. With modesty and yet with firmness let me add, sir, it offends against the Divine Law. No such enactment can be entitled to support. As the throne of God is above every earthly throne,

so are his laws and statutes above all the laws and statutes of man. To question these is to question God himself. But to assume that human laws are beyond question is to claim for their fallible authors infallibility. To assume that they are always in conformity with those of God is presumptuously and impiously to exalt man to an equality with God. Clearly human laws are not always in such conformity; nor can they ever be beyond question from each individual. Where the conflict is open, as if Congress should command the perpetration of murder, the office of conscience as final arbiter is undisputed. But in every conflict the same Queenly office is hers. By no earthly power can she be dethroned. Each person, after anxious examination, without haste, without passion, solemnly for himself must decide this great controversy. Any other rule attributes infallibility to human laws, places them beyond any question, and degrades all men to an unthinking passive obedience.

According to St. Augustine, an unjust law does not appear to be a law; *lex esse non videtur quæ justa non fuerit*; and the great fathers of the Church, while adopting these words, declare openly that unjust laws are not binding. Sometimes they are called "abuses," and not laws; sometimes "violences," and not laws. And here again the conscience of each person is the final arbiter. But this lofty principle is not confined to the Church. A master of philosophy in early Europe, a name of intellectual renown, the eloquent Abelard, in Latin verses addressed to his son, has clearly expressed the universal injunction:

Jussa potestatis terrenæ discutienda  
Cœlestis tibi mox perficienda scias.  
Siquis divinis jubeat contraria jussis  
Te contra Dominum pactio nulla trahat.

The mandates of an earthly power may be discussed; those of Heaven must at once be performed; nor can any agreement constrain us against God. Such is the rule of morals. Such, also, by the lips of judges and sages, has been the proud declaration of the English law, whence our own is derived. In this conviction patriots have fearlessly braved unjust commands, and martyrs have died.

And now, sir, the rule is commended to us. The good citizen, as he thinks of the shivering fugitive, guilty of no crime, pursued, hunted down like a beast, while praying for Christian help and deliverance, and as he reads the requirements of this act, is filled with horror. Here is a despotic mandate, "to aid and assist in the prompt and efficient execution of this law." Again let me speak frankly. Not rashly would I set myself against any provision of law. This grave responsibility I would not lightly assume. But here the path of duty is clear. By the Supreme Law, which commands me to do no injustice; by the comprehensive Christian Law of Brotherhood; by the Constitution, which I have sworn to support.

I AM BOUND TO DISOBEY THIS ACT. Never, in any capacity, can I render voluntary aid in its execution. Pains and penalties I will endure; but this great wrong I will not do. "I cannot obey; but I can suffer," was the exclamation of the author of *Pilgrim's Progress*, when imprisoned for disobedience to an earthly statute. Better suffer injustice than do it. Better be the victim than the instrument of wrong. Better be even the poor slave, returned to bondage, than the unhappy Commissioner.

There is, sir, an incident of history, which suggests a parallel, and affords a lesson of fidelity. Under the triumphant exertions of that Apostolic Jesuit, St. Francis Xavier, large numbers of the Japanese, amounting to as many as two hundred thousand—among their princes, generals, and the flower of the nobility—were converted to Christianity. Afterwards, amidst the frenzy of civil war, religious persecution arose, and the penalty of death was denounced against all who refused to trample upon the effigy of the Redeemer. This was the Pagan law of a Pagan land. But the delighted historian records that scarcely one from the multitudes of converts was guilty of this apostacy. The law of man was set at

naught. Imprisonment, torture, death, were preferred. Thus did this people refuse to trample on the painted image. Sir, multitudes among us will not be less steadfast in refusing to trample on the living image of their Redeemer.

Finally, sir, for the sake of peace and tranquillity, cease to shock the Public Conscience; for the sake of the Constitution, cease to exercise a power which is nowhere granted, and which violates inviolable rights expressly secured. Leave this question where it was left by our fathers, at the formation of our National Government, in the absolute control of the States, the appointed guardians of Personal Liberty. Repeal this enactment. Let its terrors no longer rage through the land. Mindful of the lowly whom it pursues; mindful of the good men perplexed by its requirements, in the name of charity, in the name of the Constitution, repeal this enactment, totally and without delay. Be inspired by the example of Washington. Be admonished by those words of Oriental piety—"Beware of the groans of the wounded souls. Oppress not to the utmost a single heart; for a solitary sigh has power to overset a whole world."